

MINUTES

MONTANA SENATE 57th LEGISLATURE - SPECIAL SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIR BOB DEPRATU**, on August 5, 2002 at 1:03 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chair (R)
Sen. Alvin Ellis Jr., Vice Chair (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 7, SB 8, SB 9, SB 10,
7/30/2002
Executive Action: SB 10 Tabled

The Hearing on SB 10 was stopped half way through Proponents testimony so the Senate could convene at 3:00 pm. The Hearing was reconvened ten minutes after adjournment of the Senate.

HEARING ON SENATE BILL 7

Sponsor: Senator Royal Johnson, from Billings, described the bill. He presented an amendment. He said the bill was a transfer from one fund to another and would bring \$50 million

dollars of coal tax as a grant to the General Fund. The bill is flexible so if revenues don't come through, the Governor would not need to call back the Legislature. He pointed out that more cuts were not wanted. **{Tape : 1; Side : A; Approx. Time Counter : 0 - 7.4}**

Proponents' Testimony: **Dick Crofts, Commissioner of Higher Education**, urged the committee pass the bill as this would ensure funding for essential state services especially the Montana University System. He noted that the University System was the "engine" that could make a positive future return on the investment. The budget was now reduced by 8% due to the cuts. He described the decrease of funding that occurred since 1992 but the increase of students. He stressed that the University System needed some type of revenue enhancement or an investment, such as the coal tax, could be tapped. **{Tape : 1; Side : A; Approx. Time Counter : 7.4 - 10.4}**

Opponents' Testimony: **Eric Feaver, representing MEAMFT**, opposed the bill with the amendment. He visited with **Senator Johnson** and suggested the bill needed a source of revenue to pay the loan back. He pointed out a 3/4 vote of the Legislature could not be overcome and instead the outcome would produce political rhetoric. A source of funding needed to pay the loan back "up to \$50 million - is loopy goopy". He pointed out the amount the budget would be short is not known exactly and the Legislature should not give the Governor a checkbook with \$50 million dollars. Funding was necessary rather than cutting away essential government programs. Other bills would provide more revenue streams. If the coal tax was used once it would be done again. He urged the committee not pass this bill. **{Tape : 1; Side : A; Approx. Time Counter : 10.4 - 13.4}**

Linda Williams Johnson, President of the League of Woman Voters, said the issue had been studied carefully and the League had decided the trust fund would be needed for the future. If the fund was borrowed she said to make sure the money gets repaid.

Questions from Committee Members and Responses: **Senator Bohlinger** asked **Senator Johnson** if the two bills could be merged. He said it would make sense to include SB 12 which would bring \$40 million dollars a year of revenue, to include the bed tax from 4 to 9% equaling \$15 million a year, the car rental tax of 9% equaling \$4 million and cigarette tax going from .18 cents to .60 cents, a .42 cent increase - to \$20 million a year. SB 7 could be treated like a loan and then be repaid by these other measures. He suggested the two bills be combined. **{Tape : 1; Side : A; Approx. Time Counter : 13.4 - 17.8}**

Senator Johnson replied the fund would provide a revenue stream and avoid the need to raise taxes. He pointed out there were lots of things done with the coal tax fund such as the \$12 million dollars that was used to fund science and technology.

{Tape : 1; Side : A; Approx. Time Counter : 17.8 - 20.3}

Senator Cole pointed out the Coal Trust was the reason for the good bonding record of AA. He asked what this transfer of funds from the trust would do to the rating. **Senator Johnson** noted that he was a member of the State Capital Investment Board and the bonds were rated on the ability to pay which would have no affect on the trust transfer. The rating would still be AA.

Senator Cole asked if this money would be paid back. **Senator Johnson** clarified that the transfer would be a grant and not all used but rather available to balance the budget if it was short \$5 million dollars, for example. He pointed out that if a tax increase were not possible then other cuts would be forthcoming.

{Tape : 1; Side : A; Approx. Time Counter : 20.3 - 22.9}

Senator Ellis pointed out there would be a further shortfall of the budget by January when the Session would start. **Senator Johnson** indicated that the Governor would be able to take \$5 or \$10 million dollars out of the coal tax fund to get the budget whole. It could be made a specific number or be flexible. If the money was not needed then no borrowing would be necessary.

{Tape : 1; Side : A; Approx. Time Counter : 22.9 - 27.2}

Senator Glaser felt the current budget shortfall could be attributed to a shortage of income tax collection plus a decrease in capital gains tax collections as there was a big decrease in investment income. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 3.5}**

Senator Johnson noted the bill took care of the immediate budget problems. He pointed out that additional decreases in revenue would result in further problems. These decreases would be seen if revenue from income tax collections were down. Even if employment was constant there was some question about investment income. **Clayton Schenk from the Legislative Fiscal Analysts' Office** commented that further revenue estimates could negatively require more cuts by 10% to agencies. **Senator Johnson** suggested the bill could be sun set in 2003. He pointed out the Governor would not spend the money foolishly. **Senator Stonington** said she was not comfortable with this much discretion. **{Tape : 1; Side : B; Approx. Time Counter : 3.5 - 5.5}**

Senator Bohlinger described revenue projects provided by the Department of Revenue from his three tax proposals would raise

\$40 million dollars. He noted that further funding problems would be addressed in January. **Senator Harrington** asked whether agencies could be forced more than a 10% reduction during the biennium without a Special Session. **Lee Heiman** referenced MCA 17-7-141. He pointed out the process could continue depending on the ending fund balance. **{Tape : 1; Side : B; Approx. Time Counter : 5.5 - 12.1}**

Closing by Sponsor: **Senator Johnson** closed. He talked about the serious situation that would become worse as the regular Session started. The biggest recipient group of the coal tax money is the school system. He pointed out the coal tax fund already put \$10 million in the base. Additional cuts could be avoided if this money were to be used again. **{Tape : 1; Side : B; Approx. Time Counter : 12.1 - 13.4}**

HEARING ON SENATE BILL 9

Sponsor: **Senator John Cobb**, SD 25, presented the bill. He said this would transfer \$10 million dollars to the General Fund through a one time transfer. He noted the committee had heard arguments regarding the need for a 3/4 vote for taking the coal tax money. He said this money could reduce cuts or be considered a funding source. The human services arena did not have a rainy day fund. Increases in case loads did not have a safety net and would have to be cut. The status quo was unacceptable and something must be done. He said it was time to take the money not just for the short term but for the long term mess of \$250 million dollars. Other options must be considered. **{Tape : 1; Side : B; Approx. Time Counter : 13.4 - 18.1}**

Proponents' Testimony: None

Opponents' Testimony: **Eric Feaver**, representing MEAMFT, told the committee if they were looking for long term needs then new sources of revenues must be considered. **{Tape : 1; Side : B; Approx. Time Counter : 18.1 - 19.9}**

Questions from Committee Members and Responses: **Senator Stonington** said she appreciated the work done on the bill. However, she questioned how the one time shot would address the long term problem. She pointed out that one dollar spent in human services equaled three dollars returned to the economy in terms of matching federal funds. Cuts are permanent, but the federal money was needed to exist. For every dollar cut the state would loose 2 to 3 dollars of federal money. **{Tape : 1; Side : B; Approx. Time Counter : 19.9 - 23.3}**

Senator Bohlinger asked why use the \$10 million dollar figure as it was \$45 million dollars the budget was short. **Senator Cobb** replied that if the \$10 million dollars could not be used then maybe it could be considered for a part time transfer as another option.

Closing by Sponsor: **Senator Cobb** closed.

HEARING ON SENATE BILL 8

Sponsor: **Senator John Cobb, SD 25,** presented the bill. He said this measure would raise the cigarette tax from 18 cents to 26 cents. The bill terminates in three years. The money would go for human services. He pointed out those against the taxes had good reasons. However, the problem was the human services had \$24 million dollars taken out of their budget. This affects people who made little money. The recession produced thousands of these people who came into the services trying to find money. **{Tape : 1; Side : B; Approx. Time Counter : 23.3 - 30}** He pointed out there were twice as many smokers on Medicaid. As the providers were cut, it appeared as a hidden tax since someone else pays and more is charged. Physicians don't take Medicaid patients because of the lack of payments. They are having difficulty paying their own bills. **Cobb** asked the committee to consider this bill. **{Tape : 2; Side : A; Approx. Time Counter : 0 - 2.1}**

Proponents' Testimony: **Dr. Robert Shepard, a Helena physician,** said he had served on the Governors' Council on Tobacco Use Prevention, which tried to improve the health insurance coverage in Montana. In order to reduce the need for services, a comprehensive approach in education and advertising was necessary. He said everyone recognizes the health problems caused by tobacco use. Tobacco use causes 440 thousand premature deaths. Average smokers live 14 years less than non smokers. Twenty percent of cancer deaths are due to tobacco. It is a documented fact that as the price of tobacco products go up the use goes down. There is a corresponding 4% reduction in adults and a 7% reduction in teen smoking. As a result, health care costs go down. A tax increase on tobacco would work towards reducing costs of health care. Smokers ask the public to pay for their health care. Many productive lives are lost. Health care costs the health insurance industry as most tobacco users can't afford insurance. **{Tape : 2; Side : A; Approx. Time Counter : 2.1 - 7.8}**

Erin McGowan, representing Protect Montana Kids.Org, said her organization fights to combat death and disease by tobacco

products. SB 8 would provide a temporary increase in the tobacco tax in Montana, which is the third lowest tax in the nation. There would be more than \$89 million dollars in long term health care savings. Millions of dollars would be saved and there would be fewer deaths. **{Tape : 2; Side : A; Approx. Time Counter : 7.9 - 10.4}**

Cliff Christian, American Health Association, spoke in favor of the bill. He described the tobacco addiction and the need to discourage smoking. It was his opinion that the tax offered in the bill was too low and it should be placed on tobacco products permanently, not temporarily. He said it should be seen as a user fee rather than a tax increase. He pointed out there was \$45 million dollars a year that goes to health care costs for those that can't afford it but need the care. The 18 cent tax would still be lower than any of the tobacco producing states.

Jani McCall, representing Deaconess Medical Clinic and a children provider association, supported the bill. She said the cuts were devastating and an increase in the tobacco tax would help. It should be higher and permanent and devoted to health and human services. **{Tape : 2; Side : A; Approx. Time Counter : 10.4 - 16.3}**

Jim Ahrens, Montana Hospital Association, encouraged the committee pass the bill. Smokers contribute to the negative cash flow at the hospitals. Those \$5 million dollars in General Fund cuts equal \$17 million dollars of matching federal dollars lost. Less tobacco use that would occur due to the increase of the tobacco tax, would help keep people out of hospitals. **{Tape : 2; Side : A; Approx. Time Counter : 16.3 - 18.2}**

Sammie Butler, Montana Nurses' Association, spoke in favor of the bill. She said a permanent tax on tobacco products would be needed. The long term effects of tobacco use were known.

Opponents' Testimony: Jerome Anderson, representing R.J. Tobacco Company, opposed the bill. He distributed a handout.

EXHIBIT(tas01a01) He pointed out the tobacco industry paid their fair share of the tax burden in Montana. He discussed the 1998 settlement agreement which was intended to reimburse the state of Montana to the tune of \$832 million dollars and then \$25 million dollars a year for 33 years. He noted a tobacco use decline of 25% in 1999 and a 19% decline today even considering the settlement payments. He said the industry contributed \$26.300 million in 2001 which he called a "robust" payment. He described the people who paid the tax were the least able to pay. This was not a luxury tax but a tax paid by wage earners. He recommended

the committee not vote for a tax increase on tobacco. **{Tape : 2; Side : A; Approx. Time Counter : 18.2 - 18.9}**

Steve Wade, representing Phillip Morris, spoke about the unintended consequences of an increase of the tax. It would actually have a negative impact on the budget. It would effectively decrease the amount received by the state when considering the master settlement agreement. It would also spur criminal acts in regards to smuggling via internet ordering, thus side skirting paying any tax. **{Tape : 2; Side : A; Approx. Time Counter : 18.9 - 30}**

Wade also pointed out the loss of jobs with retailers, wholesalers, transporters and those on the lower end of the wage scale would pay the tax. He said it was not fair for 20% of the population to pay the tax. Smuggling contraband was a real problem and as taxes increased, the problem would grow. Raising taxes was not a sound policy and should be broad based. He believed the tax to be narrow, unstable and would effectively reduce consumption by using social engineering. He felt a tax increase should impact everyone not just a portion of the population.

Mark Staples, representing the Montana Wholesalers and Distributors Association, pointed out that an increase in the cigarette and tobacco tax would raise prices but would not cover the potential drop in sales. He cautioned that the rise in Internet activity had not been addressed. Those Internet sales would not be subject to a sales tax.

Bob Pavlovich, spoke as an opponent to the bill. He described the need to address long term public health care policy especially for veterans. He noted an increase in the cigarette tax would have a negative effect on those veterans. **{Tape : 2; Side : B; Approx. Time Counter : 6.4 - 7.6}**

Mary Whittinghill, Montana Taxpayers' Association, said the association was opposed to increasing the tax during the Special Session. She also believed a tax increase would increase the smuggling of tobacco products.

Questions from Committee Members and Responses: **Senator Ellis** asked **Mr. Ahrens** to describe the indirect costs to the health insurance companies from the shift of insurance due to the Medicaid cuts. **Jim Ahrens, MHA,** replied that the hospitals had to cost shift at least 33% of their costs which were not paid for. There was a 33% increase for those who don't pay.

Senator Bohlinger asked **Dr. Shepard** to respond to **Jerome Anderson's** testimony about the high cost of taxes that smokers already paid. **Dr. Shepard** pointed out that due to chronic smokers, this year Montanans paid \$216 million dollars to treat tobacco related illnesses.

Closing by Sponsor: **Senator Cobb** closed. He stressed the problems that were brought about by an industry that were allowed to "legally addict and kill a lot of people." This bill would provide a way to raise money. {Tape : 2; Side : B; Approx. Time Counter : 18.4 - 21.5}

HEARING ON SENATE BILL 10

Sponsor: **Senator John Cobb** presented the bill. The bill was created as a response to the need to solve the state's short term budget needs. It would suspend the annual growth rate factor for the local government entitlement share payments. This would effect certain personal property tax reimbursements. He pointed out this would save \$2.2 million dollars. This bill he regarded as an option for the committee to consider. {Tape : 2; Side : B; Approx. Time Counter : 21.5 - 24.6}

Proponents' Testimony: None

Opponents' Testimony: **Gordon Morris, MACO**, spoke against the bill. He pointed out that during the last Session, HB 124 was passed which promoted trust between the counties and the state. This bill would erase that trust. He asked the Committee to table the bill.

Dean Harman, MACO, opposed the bill. He pointed out that most of the money was spent. It was too much to ask for local governments to give up. It would appear that the state took advantage of them. {Tape : 3; Side : A; Approx. Time Counter : 0 - 0.6}

Alec Hansen, Montana League of Cities and Towns, stressed that the cities, counties and state had worked hard on HB 124 to reach a unanimous agreement. HB 124 works and is stable. Over a three year period the state would gain. Trust had been invested. SB 10 would not be acceptable as it would completely erode this relationship.

Linda Stohl, representing Missoula County, spoke against the bill. She talked about the important services that were provided to taxpayers with this money.

Tim Burton, Helena City Manager, opposed the bill. He discussed the need for predictable and stable funding. Stability was needed to turn the economy around. This bill would have a negative impact.

Mike Kadas, Mayor of Missoula, said it was important to consider the problem of large cuts in the budget spawned the need to look at an increase of various taxes to make up the difference. However, taxes were capped in HB 124. **{Tape : 3; Side : A; Approx. Time Counter : 4.5 - 9.2}**

The Committee recessed at 2:57 p.m. and reconvened at 4:12 p.m.

Mona Jamison, representing Gallatin County, opposed the bill. She was worried that the state would try to balance the budget on the backs of local governments. She told the committee to let HB 124 work and oppose SB 10.

Jani McCall, representing the city of Billings, opposed the bill. This bill would also suspend the inflation factor for local government collections. Cities had already given up additional revenues in exchange to the state. Billings will loose too much and would end up having to cut staff.

Judy Jacobson, Chief Executive of the city of Butte, pointed out this was a fairness issue. The cities cannot afford to loose more revenue.

Joe Mazurek, representing the city of Great Falls, spoke against the proposed legislation.

John Lawton, Great Falls City Manager, said he served on the Interim Committee and he recommended HB 124 be allowed to work. The state would actually be gaining money over the long term. It would be a mistake to go back on an agreement. He asked that this bill be defeated.

Questions from Committee Members and Responses: **Senator Ekegren** asked for an explanation of HB 124. **Joe Mazurek** discussed the reimbursement schedule and how the percentages worked for the long term. **Jani McCall** talked about the cost to Billings for 2003, which would be \$247,587 dollars.

Closing by Sponsor: **Senator Cobb** closed. He presented an document which outlined the calculations of entitlement share payments from the cities. **EXHIBIT(tas01a02)** He pointed out this bill provided an option as a way of raising money. **{Tape : 3; Side : B; Approx. Time Counter : 13.2 - 15}**

EXECUTIVE ACTION ON SENATE BILL 10

Senator Stonington moved to table the bill. She pointed out this would effect the counties and cities negatively and should be dealt with during the regular Session. The counties gave up growing their revenue in order to have stable support based on the state partnership.

Senator Bohlinger noted that passing SB 10 would break the trust established between cities, counties and state government. He pointed out it would reduce the budget in Billings by over \$247 thousand dollars and he doubted their ability to absorb the reduction. This would cause a reduction in employment and he did not support the legislation.

Senator Glaser said that it was not good to change deals every time there was a budget crunch. The money should be found elsewhere. He supported the tabling motion.

Senator Harrington pointed out the cities and counties were the losers in the long run with HB 124. Next Session they better hope they get the money back.

The question was called. The motion to table passed unanimously.

SENATE COMMITTEE ON TAXATION

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ADJOURNMENT

Adjournment: 4.34 P.M.

SEN. BOB DEPRATU, Chair

DEB THOMPSON, Secretary

BD/DT

EXHIBIT(tas01aad)